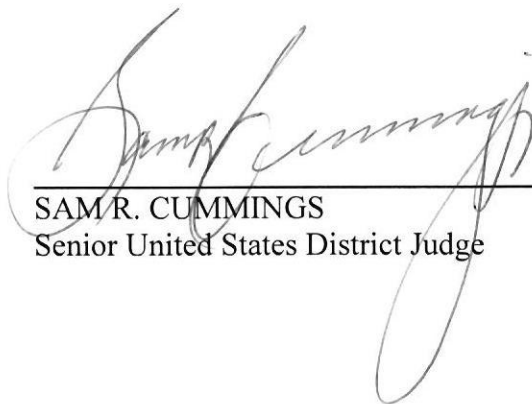


- 1) Defendant Holmes's Motion and Brief to Dismiss Official Capacity Claim Pursuant to Rule 12(b)(6) is DENIED as moot. Alternatively, to the extent Plaintiff's Complaint may be construed to state an official capacity claim that was not previously dismissed, the Motion is GRANTED.

- 2) There is no just reason for delay in entering a final judgment and final judgment should be entered as to the previously dismissed claims against Defendants Lubbock County and LCDC Medical Department, as well as any official capacity claims against Defendant Holmes, pursuant to Federal Rule of Civil Procedure 54(b). Judgment shall be entered accordingly.
- 3) The Court will enter a separate scheduling order, setting forth dates certain for pretrial deadlines and filing dispositive motions.
- 4) The only remaining claim in this civil action is Plaintiff's excessive force claim against Defendant Elroy Holmes, in his individual capacity. Thus, the caption of this case is changed to *Aniseto Olivarez, Jr. v. Elroy Holmes*.

SO ORDERED.

Dated April 6, 2020.



SAM R. CUMMINGS
Senior United States District Judge